

<b>LFC Requester:</b>	Connor Jorgensen
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:

Original	<input checked="" type="checkbox"/>	Amendment	<input type="checkbox"/>	Date	January 28, 2016
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	HB 237

Sponsor: Rep. Monica Youngblood and Rep. Yvette Herrell      Agency Code: 305

Short Title: Child Protection      Person Writing: Jennifer Armijo Hughes, AAG

Title: Registry Act and Fund      Phone: 222-9000      Email: jhughes@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	\$300	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	0	\$250	\$100	\$350	Nonrecurring	Gen. Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

**BILL SUMMARY**

Synopsis:

HB 237 is a bill creating the "Child Protection Registry Act." Section 2 describes the purpose of the act, which is to provide safeguards to prevent minors from receiving communications that advertise a product or service that a minor is prohibited by law from purchasing or that contains or has the primary purpose of advertising or promoting material that is harmful to minors.

Section 3 defines "contact point" as any electronic identification to which communication can be sent, such as email, instant message identity, telephone numbers, or any other electronic address the Attorney General identifies in the rules made public pursuant to this act. It defines minor as one not reaching the age of majority.

Section 4 mandates that the Attorney General establish and operate a child protection registry to compile and secure a list of registered contact points and also adopt procedures to prevent unauthorized use or disclosure of registered contact points. It mandates that the Attorney General promulgate rules on how a person responsible for a contact point may register and to ensure that a registrant meet the requirements. It allows schools or other entities that primarily serve minors to submit one form for all contact points of the school or entity. It establishes that registration of a contact point is valid for three years. The Attorney General is allowed to contract with a third party administrator to establish, operate and secure the child protection registry. It states that no fee shall be charged for registering a contact point in the child protection registry. Section 4 states that information contained in the registry is not public record and not available to the public.

Section 5 creates the "Child Protection Registry Fund" which consists of appropriations and fees collected pursuant to Section 6 and specifies that money in the fund does not revert to any other fund at the end fiscal year. It requires the Attorney General to administer the fund and mandates that the money in the fund is appropriated to the Attorney General to establish, operate and administer the registry and to enforce and defend the Child Protection Registry Act.

Section 6 requires the Attorney General to establish a mechanism for verifying whether a contact point is registered in the registry and allows him to charge a fee not to exceed three cents per contact checked. It requires a person desiring to send a communication to verify that the intended contact points are not registered in the registry. Any fees collect will be deposited in the child protection registry fund.

Section 7 provides the criminal penalties for violation of the act.

Section 8 contains an exception for valid consent by an adult. It requires the Attorney General to prescribe a method for verifying valid consent.

Section 9 provides the civil penalties for violation of the act.

Section 10 establishes that it is a valid defense to an action brought under the Child Protection Registry Act that a person reasonably relied on the mechanism for verification of compliance.

### **FISCAL IMPLICATIONS**

As drafted, HB 237 mandates the Attorney General to establish and operate the child protection registry, establish rules and procedure for registry, administer the child protection registry fund, establish mechanisms for verification and establish rules for verifying valid consent, but provides no appropriation for additional staff. It is estimated that the Office of the Attorney General (OAG) will need two attorney FTEs, two support staff FTEs, and one information technology FTE for each year, at a cost of \$300,000 annually. Additionally, the OAG will need software and hardware and it is anticipated that those start-up costs will range from \$100,000 to \$250,000.

### **SIGNIFICANT ISSUES**

Sections 30-37-1 through -10, NMSA 1978 provide criminal penalties for sale, distribution, and display of visual representations that come within the same definition of “harmful to minors” that is used in HB 237. HB 237 should be considered in light of, and possibly reconciled with, the legislative intent underlying Section 30-37-8, which states that Sections 30-37-1 through -10 are the sole source of regulation regarding some of the material this bill purports to cover.

### **PERFORMANCE IMPLICATIONS**

As drafted, HB 237 mandates the Attorney General to establish and operate the child protection registry, establish rules and procedure for registry, administer the child protection registry fund, establish mechanisms for verification and establish rules for verifying valid consent, but provides no appropriation for additional staff, which may impact the agency’s other performance based budget targets.

### **ADMINISTRATIVE IMPLICATIONS**

N/A

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

### **TECHNICAL ISSUES**

N/A

**OTHER SUBSTANTIVE ISSUES**

N/A

**ALTERNATIVES**

N/A

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

**Status quo**

**AMENDMENTS**

N/A